

Assembly Bill No. 2919

CHAPTER 256

An act to amend Section 17533.6 of the Business and Professions Code, relating to advertising.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2919, Garcia. Advertising.

Existing law makes it unlawful for any person, firm, or corporation, or association that is a nongovernmental entity to solicit funds or information by means of a mailing, electronic message, or Internet Web site that contains a seal, insignia, trade, or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement, unless the nongovernmental entity has an expressed connection with a state or local entity or unless the solicitation contains a specified disclosure. A violation of these or other provisions related to advertising is a crime.

This bill would, except as specified, require a business that solicits the purchase of, or payment for, a service by means of an unsolicited mailing offering to assist the recipient in dealing with a state or local governmental agency to state on the envelope and in the mailing that the business is not a governmental agency and is not associated with the governmental agency, and to include in the mailing the contact information for the governmental agency.

Because this bill would impose new advertising requirements, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 17533.6 of the Business and Professions Code is amended to read:

17533.6. (a) It is unlawful for any person, firm, corporation, or association that is a nongovernmental entity to solicit information, or to solicit the purchase of or payment for a product or service, or to solicit the contribution of funds or membership fees, by means of a mailing, electronic

message, or Internet Web site that contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement, unless the requirements of paragraph (1) or (2) have been met, as follows:

(1) The nongovernmental entity has an expressed connection with, or the approval or endorsement of, a state or local government entity, if permitted by other provisions of law.

(2) The solicitation meets both of the following requirements:

(A) The solicitation bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other type on its face, the following notice:

“THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY ANY GOVERNMENT AGENCY, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE GOVERNMENT.”

(B) In the case of a mailed solicitation, the envelope or outside cover or wrapper in which the matter is mailed bears on its face in capital letters and in conspicuous and legible type, the following notice:

“THIS IS NOT A GOVERNMENT DOCUMENT.”

(b) Except as provided in subdivision (c), any business that solicits the purchase of, or payment for, a service by means of an unsolicited mailing that offers to assist the recipient in dealing with a state or local governmental agency shall do both of the following:

(1) State on the envelope and in the mailing that the business is not a governmental agency and is not associated with the governmental agency referenced.

(2) Include in the mailing the contact information for the governmental agency referenced.

(c) Subdivision (b) shall not apply if either of the following requirements has been met:

(1) The business has an expressed connection with, or the approval or endorsement of, a state or local government entity, if permitted by other provisions of law.

(2) The business has an “established business relationship,” as defined in Section 1798.83 of the Civil Code, with the recipient.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.